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LOCAL GOVERNMENT ACT 1995

SHIRE OF NORTHAM

**EXTRACTIVE INDUSTRIES
LOCAL LAW 2004**

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LOCAL GOVERNMENT ACT 1995**SHIRE OF NORTHAM****EXTRACTIVE INDUSTRIES LOCAL LAW 2004**

Under the powers conferred by the *Local Government Act 1995* and by all other powers enabling it, the Council of the Shire of Northam resolved on 14 October 2004 to make the following local law.

PART 1—PRELIMINARY**Definitions**

1.1 In this local law, unless the context otherwise requires—

“AHD” means the Australian Height Datum;

“Act” means the *Local Government Act 1995* and words and expressions have the same meanings as they have in the Act;

“arterial road” means any road under the control of Main Roads Western Australia or the Shire of Northam that provides direct access between two localities of significance;

“carry on an extractive industry” means quarrying and excavating for stone, gravel, sand, and other material;

“CEO” means the Chief Executive Officer of the local government;

“Council” means the Council of the Shire of Northam and shall include its duly authorised officers;

“district” means the district of the local government;

“EPA” means Environmental Protection Authority Western Australia;

“excavation” includes quarry;

“extractive industry” means quarrying and excavating for any stone, gravel, sands, clay, limestone, loam or other material;

“infrastructure” means any building, treatment works, screening device, tank or structure;

“land”, unless the context otherwise requires, means that the land on which the applicant proposes carrying on the extractive industry to which the licence application relates;

“licence” means a licence issued under this local law;

“licensee” means the person named in the licence as the licensee;

“local government” means the Shire of Northam;

“local road” means a road under the control of the Shire of Northam that provides access from individual properties to arterial roads or localities;

“Minister” means the Minister for Local Government and Regional Development;

“overburden” means that material removed from the surface to access wanted material;

“occupier” has the same meaning as defined in the *Local Government Act 1995*;

“owner” has the same meaning as defined in the *Local Government Act 1995*;

“person” does not include the local government;

“secured sum” means that amount required to be paid as cash, a bond, guarantee or security under this local law;

“site” means the land specified by the local government in a licence;

“stockpile” means a deposit of excavated material stored for whatever purpose.

Citation

1.2 This local law may be cited as the *Extractive Industries Local Law 2004*.

Repeal

1.3 The principal local law of the Shire of Northam relating to Extractive Industries published in the *Government Gazette* on 27 September 1974, including subsequent amendments published in the *Government Gazette* on 18 April 1975, 29 January 1982, 26 July 1991 and 3 April 1992 are repealed.

PART 2—APPLICATION**Extent of Jurisdiction**

2.1 (1) Subject to subclause 2.2(1) of this local law a person shall not, on any land, other than on Crown land within the Shire of Northam, excavate for stone, gravel, sands, clay, limestone, loam or other material; or carry on for the purpose of recovering any stone, gravel, sands, clay, limestone, loam or other material, any operation whereby an excavation is created or enlarged, without first having obtained a licence to do so from the Shire of Northam.

(2) Nothing in this local law shall be construed to limit, diminish or restrict any general local laws made, or to be made, under the *Town Planning and Development Act 1928* as amended, and in the case of any inconsistency the general local laws shall prevail.

(3) This local law applies to all land other than Crown land, in the district; and apply, except wherein these local laws expressly excluded, to every excavation, whether existing or made before or after the coming into operation of these local laws.

Application for Licence**2.2 Licence not required—**

- (1) A licence mentioned in subclause 2.1(1) of this local law, is not required where the proposed creation, or enlargement of an excavation is—
 - (a) For the recovery of stone, gravel, sands, clay, limestone, loam or other material for the use on the property by the owner or occupier of the property and not for disposal or sale outside the property; and not less than fifty (50) metres distant from any boundary of the property or from any public road;
 - (b) Except where the operation is on a commercial basis, for the recovery of any such materials for the purpose of road construction or maintenance; of a volume not greater than a total of three thousand (3000) cubic metres inclusive of all adjacent excavations which have not been rehabilitated and not less than fifty (50) metres distant from any boundary of the property or from any public road; or
 - (c) For agricultural purposes on agricultural land; and not less than fifty (50) metres distant from any boundary of the property or from any public road; and
 - (d) Where, by subclauses 2.2(1) (a) and (b) of this local law a licence is not required, irrespective of the manner of its ceasing, on the cessation of any excavation work, the Council may require the owner or occupier to ensure that—
 - (i) the excavation is filled to the satisfaction of the Council or rehabilitated to the satisfaction of Council or its representative in accordance with clause 6.5 of this local law; and
 - (ii) any face permitted to remain in the excavation is left safe with all loose material removed therefrom; and the floor level is graded to an even surface and the sides sloped to an even batter sufficient to prevent subsidence of the surrounding area.

Application shall include

2.3 Pursuant to clause 2.1(1) of this local law, a person, seeking the issue of a licence in respect of any land, must apply in the form determined by the local government from time to time, and must forward the application duly completed and signed by both the applicant and the owner of the land to the CEO of the local government, subject to subclauses (1) and (2).

(1) Subject to clause 2.3, the application shall—

- (a) be in writing; and
- (b) be accompanied by three (3) copies of a plan of the excavation site to a scale of between 1:500 and 1:2000, showing the existing and proposed land contours based on the AHD and plotted at 1m contour intervals.

(2) Subject to clause 2.3(1), the plan shall have—

- (a) a description of the land shown clearly on a locality plan on which the excavation site is to be located;
- (b) the location of all existing dams, watercourses, drains or sumps on or adjacent to the land;
- (c) the external surface dimension of the land;
- (d) the location and depth of the existing and proposed excavation of the land;
- (e) the location of the areas proposed to be used for stockpiling excavated material, treated material, overburden and soil storage on the land and elsewhere;
- (f) location of existing power lines, telephone cables and any associated poles or pylons, sewers, pipelines, reserves, bridges, railway lines and registered grants of easement or other encumbrances over, on, under or adjacent to or in the vicinity of the land;
- (g) the level of filling for rehabilitation, upon completion of excavation operations;
- (h) the location of buildings, treatment plant, tank and other improvements and developments existing on, approved for or proposed in respect of the land;
- (i) state the proposals, if any, for the future development of the land upon completion of excavation operations and any proposed rehabilitation;
- (j) the location of existing and proposed roads or other means of vehicle access to and egress from the land and to public roads in the vicinity of the land, including an indication of what public roads the licensee intends to use

- (k) an excavation management and closure plan in accordance with clause 6.2 of this local law;
- (l) the location and description of existing and proposed fences, gates and warning signs around the land; and
- (m) copies of any planning approvals required under any planning legislation.

Land in Irrigation Area or Water Supply Catchment

2.4 Where the land the subject of an application for a licence to excavate is situated within an irrigation area constituted under the Rights of the *Waters and Rivers Commission Act, 1995* as amended, or within a drainage or catchment district constituted under the *Land Drainage Act 1925* as amended, the following provisions shall apply—

- (1) The plan or any amended plan of the excavation, when submitted to the Council for approval, shall clearly and legibly disclose that the land represented therein is situated within an irrigation district or within a drainage or catchment district, as the case may be, and give the name of such district;
- (2) The Council shall, on receipt of the plan or amended plan and before considering whether or not it shall be approved, refer the plan or amended plan to the Waters and River Commission or Water Corporation (as the case may require) in which the land represented in such plan or amended plan is situated, for examination, consideration and report to the Council;
- (3) The Waters and Rivers Commission or Water Corporation concerned shall, as soon as reasonably may be, report in writing to the Council, the conditions if any, that should be imposed in the granting of a licence, in order that any existing works or proposed works of the entity shall not be adversely affected by the granting of a licence; and
- (4) When the Council has received from the Waters and Rivers Commission or Water Corporation concerned, the notification provided for in subclause (3), the Council may proceed to examine and consider the plan or amended plan of excavation together with other provisions of the Act and this local law and to determine whether or not the Council should approve of the issue of a licence.

Additional Information

2.5 An applicant for a licence to excavate shall give to the Council such additional information concerning the proposed excavation, as the Council may reasonably require.

Applicant to advertise proposal

2.6 An intending applicant for a licence to excavate shall—

- (1) Except in the case of an application in respect of an excavation in existence at the time of the coming into operation of this local law, by arrangement with the Local Government, publish in a newspaper circulating in the area, a notice of intention to submit the application, specifying that any person interested may, within fourteen (14) days after the date of publication, object to the granting of the licence, by written notice given to the Council;
- (2) Supply to the Council for posting on its notice board, a copy of the notice, which the Council shall exhibit on the notice board for at least seven (7) days;
- (3) The local government, at the cost to the applicant, shall forward by mail a notice, in the form determined by the local government from time to time to—
 - (a) the owners and occupiers of all land adjoining the land upon which it is proposed to excavate, or within an area determined by the local government as likely to be affected by the granting of a licence, advising of the application and specifying that they may, within twenty-one (21) days of date of service of the letter, object to or make representations in writing in respect of the issue of a licence by the local government;
 - (b) every authority or person having control or jurisdiction over any of the things referred to in clause 2.3(8) within five-hundred (500) metres from the boundaries of the land, or within an area determined by the local government as likely to be affected by the granting of a licence;

and

- (4) As soon as practical after complying with the requirements of subclause (3), the local government on behalf of the applicant shall publish the notice in a newspaper circulating in the area in which the proposed excavation is located.

PART 3—ASSESSMENT OF APPLICATION

Determination of Application

3.1 The local government may, in respect of any application for a licence—

- (1) refuse the application; or
- (2) approve the application—
 - (a) over the whole or part of the land specified in the application; and
 - (b) on such terms and conditions as it sees fit.
- (3) The terms and conditions of approvals referred to in subclause (2) of this clause shall not be limited to those items herein contained and the extent of those terms and conditions shall not be limited.

Compliance with Local Law

3.2 All applications shall be in the form prescribed in clause 2.3 of this local law and shall contain all information specified therein and will undertake the necessary advertising as specified in clause 2.6 of this local law.

Third Party Approval

3.3 Where an application is subject to the approval of another authority, a licence shall not be granted until all such approvals are granted and conditions of such approvals complied with clause 2.4 of this local law.

Annual Licence Fee

3.4 The maximum annual fee payable to the Council for a licence shall be determined by Council from time to time, but the Council may vary the fee in respect of an excavation or undertaking deemed by it to be small in area or depth or excessively large in area depth or production.

Conditions of Approval

3.5 Secured sum for roadworks—

- (1) The Council may, before granting any licence under this local law, require the applicant:
 - (i) to enter into an agreement for the payment to the Council of a secured sum of money, being the expense estimated by the Council as likely to be incurred by it, in repairing and maintaining roads under its control in the neighbourhood of the proposed excavation by reason of extraordinary damage, as a result of heavy or extraordinary traffic conducted by the licensee or any person acting on his behalf in the exercise of the licence, if granted; and any such agreement shall be deemed to have been entered into under the provisions of sections 84 and 85 of the *Road Traffic Act, 1974* as amended;
 - (ii) the due observance of any agreement entered into by the applicant; pursuant to paragraph (i) of this subclause be a condition of the granting and holding of the licence; and
 - (iii) in the event of disagreement between the applicant and the Council as to the amount of the expense estimated by the Council pursuant to this local law, that disagreement shall be referred to the Minister, whose decision shall be binding on both the applicant and the Council.
- (2) An applicant for a licence under the provisions of this local law shall give to the local government a bond, bank guarantee or other security, of a kind and in a form acceptable to the local government, in or for a sum not exceeding twenty five thousand dollars (\$25,000), as the Council may, by resolution, determine, to be retained by the Council for the duration of the licence and until the licensee shall have complied with clause 6.5 of this local law;
- (3) Where a licensee, or person whose licence has expired, is convicted of a breach of any of the provisions of clause 6.5 of this local law, the Council may cause the necessary work, or so much of that work as remains undone, to be carried out and the licensee must pay to the local government on demand all costs incurred by the local government or which the local government may be required to pay under this clause.
- (4) Upon the expiration of the licence and the carrying out of the prescribed works, the deposit (if any) or the balance of the deposit shall be repaid to the licensee;
- (5) Any cash deposit paid to a Council under this local law shall be placed in the Council's Trust Fund, and lodged in a Savings Bank; with all interest derived therefrom shall be added to the deposit, and credited to the licensee.

Period of Licence

3.6 A licence shall be valid for the expected life of the excavation, as determined by the Council, subject to the payment of the prescribed annual fee.

Dangerous Excavations—Requirement to Fence

3.7 The provisions of Schedule 9.1.6 of the Act shall apply to this local law as if set out herein and, in addition where the Council considers it to be necessary as a safety precaution, a licensee may be required to fence, to the satisfaction of the Council, the area proposed to be excavated, prior to the commencement of the work.

Prescribed Route

3.8 Council may, as it so determines, specify a route for transportation of materials from the site to an arterial road or other destination through the local road system, and if required place limitations as to the tonnage to be carted along a particular route.

PART 4—RENEWAL, CANCELLATION, CESSATION, TRANSFER OF LICENCE**Renewal of Licence**

4.1 A licensee who wishes to renew a licence must apply in writing to the local government at least forty-five (45) days prior to the expiry of the licence and must submit with the application for renewal—

- (1) The fee as so determined by Council from time to time;
- (2) A copy of the current licence;
- (3) If so determined by Council those things referred to in clauses 2.3 and 2.4 of this local law;

- (4) Details of works to date including excavations, rehabilitation, stages reached or other things referred to in the original application.

Upon Receipt of an application for renewal the Council may—

- (1) Refuse the application or
- (2) Approve the application on such terms and conditions as it sees fit.

Cancellation of Licence

4.2 If a licensee fails to comply with—

- (1) Any of the terms of any agreement entered into with the Council, relative to the excavating of stone, gravel, sands, clay, limestone, loam or other material;
- (2) Any of the clauses of this local law;
and
- (3) the default continues after the expiration of fourteen (14) days from service on the licensee of written notice from the Council to remedy the fault, then, the Council may, with the prior consent of the Minister, cancel the licence of the defaulting licensee subject to the provisions of subclause (4) of this local law.
- (4) The Council shall give to the licensee at least seven (7) days written notice of its intention to apply to the Minister for his consent to the cancellation of a licence.

Notice of cessation of operations

4.3 (1) Where a licensee intends to cease carrying on an extractive industry—

- (a) temporarily for a period in excess of twelve (12) months or
- (b) permanently

the licensee must, as well as complying with clause 6.5, give the local government written notice of the cessation not later than one (1) week after those operations have ceased.

(2) Where a licensee has given written notice to the local government of the intention to permanently cease carrying on an extractive industry on the site to which the licence is deemed to have expired on the date such cessation is so notified.

(3) The temporary or permanent cessation of the carrying on of an extractive industry on a site or the deemed expiration or cancellation of a licence does not entitle the licensee to any refund of any licence fee.

Transfer of Licence

4.4 A licence may be transferred to another applicant and the application must be—

- (1) in writing;
- (2) be signed by the licensee and the proposed transferee of the licence;
- (3) be accompanied by a copy of the current licence;
- (4) include any additional information that the local government may require;
- (5) if granted prior to the coming into existence of this local law may be required to comply with the conditions of clause 2.3 of this local law.

Upon receipt of an application to transfer a licence the Council may—

- (1) refuse the application; or
- (2) approve the application subject to any terms and conditions as it sees fit.

Where the local government approves the transfer of a licence it shall not be required to refund any part of the fees paid by the former licensee in respect of the transferred licence.

PART 5—BREACH OF LOCAL LAW

Penalties

5.1 Any person who, either by act or omission, contravenes this local law or being the owner or occupier of property within the district, knowingly permits any act or omission on any property owned or occupied by them in contravention of this local law is guilty of an offence and is liable to a penalty of a maximum of five thousand dollars (\$5,000) and in addition to a daily penalty of a maximum of five hundred dollars (\$500) for each day during which the offence continues after his conviction. This clause applies unless the penalty is otherwise stipulated in this local law.

Cancellation

5.2 Where an offence has occurred under clause 5.1 of this local law the provisions of clause 4.2(4) of this local law may apply as deemed necessary by Council.

PART 6—LIMITATIONS AND GUIDELINES

Excavation Setbacks

6.1 Subject to the provisions of clause 2.2 of this local law, a person shall not excavate within—

- (1) twenty (20) metres of the boundary of any land subject to a extractive industry licence, except by agreement of the owner of the adjoining land, verified to the satisfaction of the Council;
- (2) a distance of forty (40) metres of any road, unless the Council approves of excavation within a lesser distance, under the provisions of subclause 6.1(5) of this local law;

- (3) twenty (20) metres of any land affected by an easement or other encumbrance;
- (4) forty (40) metres of any watercourse, dam or soak not wholly contained within the property.
- (5) Where a proposed excavation is not to be lower than the level of the nearest road and reinstatement of the area excavated for its existing use is possible, the Council may permit a licensee to excavate to a specified distance within forty (40) metres of that road.
- (6) The Council may, in any particular case, having regard to any Town Planning Scheme or any land usage local law implemented by the Council and to any regulation or order issued under the provisions of the *Town Planning and Development Act 1928* as amended, limit any excavation to such greater distance as is so specified.
- (7) Any person shall not, within forty (40) metres of the boundary of any road or of any land owned by the Council or such lesser distance as may be permitted under the provisions of subclause 6.1(5) of these local laws, remove natural trees or scrub on land in respect of which a licence to excavate has been granted, except for the purpose of constructing access roads or erecting buildings for use in connection with the excavation.

Excavation Operation and Management

6.2 Excavation Management and Closure Plan—

- (1) The applicant shall, when requested to do so by the local government, supply three (3) copies of an Excavation Management Plan for all proposals where the estimated total volume of the excavation or material removed from the site will exceed ten thousand (10,000m³) cubic metres and will as a minimum include—
 - (i) the nature and estimated duration of the proposed excavation for which the licence is applied;
 - (ii) the estimated quantities to be extracted from the site, in total, monthly and weekly quantities;
 - (iii) the distance from adjacent dwellings, reserves, settlements, environmentally sensitive areas, recreational facilities and if there is line of sight connection between the sites;
 - (iv) prevailing wind speed and direction;
 - (v) proposed volumes and areas to be mined at any one time;
 - (vi) proposed stockpile sites and volumes to be stored and methods for preventing the escape of material into any stream, watercourse or drain, that is not wholly situated within land owned or occupied by the applicant;
 - (vii) the method of cartage of excavated materials and the proposed route for access to an arterial road or other destination;
 - (viii) staging and timing of excavation works including hours and days of operation, proposed staged development of site including rehabilitation of exhausted areas;
 - (ix) method of excavation and on-site processing works and related compliance with EPA regulations as imposed in accordance with clause 7.3 of this local law but as a minimum shall address noise, visual, air and water pollution;
 - (x) method of removal and re-establishment of vegetation, topsoil and overburden and rehabilitation works in accordance with clause 6.5 of this local law;
 - (xi) a description of site drainage and erosion control measures to be implemented to restrict water and contaminants entering watercourses or streams not wholly contained on the site;
 - (xii) an assessment of the existing flora and fauna and methods of conserving these resources and rehabilitating upon cessation of works;
 - (xiii) where required, the method of screening the site from surrounding areas or otherwise minimizing adverse visual impact on surrounding areas; and
 - (xiv) develop a safety plan for operations in accordance with clause 7.2 of this local law and other relevant legislation and regulations.

Prohibitions and Limitations

6.3 Having regard to the nature of the material being excavated, the method of working and the equipment used, the height of the face of an excavation shall be determined by a qualified geotechnical engineer as one that can be safely worked, and should there be any dispute between the Council and the licensee as to the height of any such face, then the matter shall be submitted to the responsible Minister, or a person nominated by that Minister, and his decision shall be binding on both the Council and the licensee.

Blasting

6.4 A person must not carry out or permit to be carried out any blasting in the course of excavating unless—

- (1) the local government has otherwise given approval in respect of blasting generally or in the case of each blast;
- (2) the blasting is carried out in strict accordance with AS2187 SAA Explosives Code, the *Mines Safety and Inspection Act 1994*, the *Environmental Protection Act 1986* and all relevant local laws of the local government and any statute of the State of Western Australia or the Commonwealth of Australia;

- (3) subject to subclause (1), the blasting takes place only between the hours of 8 a.m. and 5 p.m., or as determined by the local government, on Mondays to Fridays inclusive.
and
- (4) in compliance with any other conditions imposed by the local government concerning—
 - (i) the time and duration of blasting;
 - (ii) the purposes for which the blasting may be used;
 - (iii) the methods of detonation and blasting;
 - (iv) the types of explosives to be used; and
 - (v) such other matters as the local government may reasonably require in the interests of the safety and protection of members of the public and of property within the district.

Penalty five-thousand dollars (\$5,000.00) for each offence, and if the offence is of a continuing nature, to a daily penalty not exceeding a fine of five-hundred dollars (\$500.00) in respect of each day or part of a day during which the offence has continued.

- (5) A person must not carry out or permit to be carried out any blasting on a Saturday, Sunday or Public Holiday except with the prior approval of the local government.

Penalty two-thousand dollars (\$2,000).

Rehabilitation

6.5 Irrespective of the manner of its ceasing, on the cessation of any excavation work, the licensee shall ensure that—

- (1) The excavation is filled or rehabilitated in accordance with the plan referred to in clause 6.2 of this local law;
- (2) Any face permitted to remain in the excavation is left safe with all loose material removed therefrom;
- (3) Retaining walls, where considered necessary by the Council to prevent subsidence of the surrounding area, are constructed in such manner as may be agreed upon between the Council and the licensee;
- (4) The agreed floor level of the excavated area, where retaining walls are not required under the provisions of this clause, is graded to an even surface and the sides sloped to a batter sufficient to prevent subsidence of the surrounding area;
- (5) All dumps of stone, sand or other material are so left that no portion of that material can escape into any stream, watercourse or drain, that is not wholly situated within land owned or occupied by the licensee;
- (6) All topsoil previously removed from the site, is to be spread over the site;
- (7) The area to be seeded with a mixture of seeds from species typical of the area as specified by Council, or alternatively that area shall be planted with seedlings of a similar variety, the number or amount to be determined by Council or returned to pasture or cropping as approved by Council; and
- (8) Where deemed necessary by Council an area may need artificial rejuvenation by means of irrigating and fertilisation to ensure satisfactory rehabilitation.

PART 7—GENERAL PROVISIONS

Public Liability

7.1 (1) A licensee shall have at all times a current public liability insurance policy taken out in the joint names of the licensee and the local government indemnifying the licensee and the local government for a sum not less than ten million dollars (\$10,000,000) in respect of any one claim relating to any of the excavation operations.

(2) The licensee shall provide to the local government a copy of the policy taken out under subclause (1), within fourteen (14) days after the issue of that policy and shall provide to the local government evidence of renewal within fourteen (14) days of each renewal date.

Occupational Safety and Health Act 1984

7.2 All works shall be in accordance with the provisions of the *Occupational Safety and Health Act 1984* and regulations of Work Safe Western Australia.

Environmental Protection Act 1986

7.3 (1) In any case where the *Environmental Protection Act 1986* applies to any excavation carried on or proposed to be carried on at a site, the licensee in respect of that site must—

- (a) comply with all applicable provisions of the *Environmental Protection Act 1986*; and
- (b) provide to the local government within fourteen (14) days full particulars of any inspection or report made under the *Environmental Protection Act 1986*

in accordance with Paragraph 6.2(1)(x) of this local law.

(2) In this clause, the *Environmental Protection Act 1986* includes all subsidiary legislation made under the *Environmental Protection Act 1986*.

Mines Safety and Inspection Act 1994

7.4 (1) In any case where the *Mines Safety and Inspection Act 1994* applies to any excavation carried on or proposed to be carried on at a site, the licensee in respect of that site must—

- (a) comply with all applicable provisions of the *Mines Safety and Inspection Act 1994*; and
- (b) provide to the local government within fourteen (14) days full particulars of any inspection or report made under the *Mines Safety and Inspection Act 1994*;

in accordance with Paragraph 6.2(1)(x) of this local law.

(2) In this clause, the *Mines Safety and Inspection Act 1994* includes all subsidiary legislation made under the *Mines Safety and Inspection Act 1994*.

Damage to Roads and Prescribed Route

7.5 Where deemed appropriate under clause 3.8 Council may prescribe a route for the transportation of material from the site to its destination or to an arterial road, and where a prescribed route exists the licensee may be liable for the cost to maintain or reinstate the road to its original state, under the provisions of clause 3.5 of this local law.

(1) In the event of any roads on a prescribed route being inadequate in construction standard, the Council may require the licensee, as part of an approval, to contribute towards the upgrade of the road or roads to a standard as specified by Council.

PART 8—OBJECTIONS AND APPEALS**Dispute between Licensee and Council**

8.1 Where any dispute arises between the licensee and the Council, with regard to any matter referred to in this local law (other than in clause 6.3) or in respect of any order, direction or requisition by the Council, the dispute shall be dealt with in accordance with the provisions of Division 1 of Part 9 of the Act and regulations 33 and 34 of the *Local Government (Functions and General) Regulations 1996*.

Appeal to Minister

8.2 In the event of a dispute as to any alleged breach of the clauses of this local law, the licensee shall not be liable to prosecution in respect of any alleged breach committed prior to the date of the decision in accordance with the provisions of Division 1 of Part 9 of the Act and Regulations 33 and 34 of the *Local Government (Functions and General) Regulations 1996*.

Licence shall not Limit Liability

8.3 The holding of a licence does not exempt the licensee from liability to the public at large for any damage or nuisance occasioned by or arising from the excavation work and any associated works.

Form 1

(Newspaper Notice)

**NOTICE OF APPLICATION
FOR AN EXTRACTIVE INDUSTRY LICENCE**

Take notice that [1]
.....
intends to apply to the [2] for an extractive industry licence to excavate
[3]
on land situated at [4]
.....
being [5]

Any person who wishes to object or otherwise comment upon this proposal, should do so in writing to the

Chief Executive Officer, [2] [6], not later than [7]

[1] Insert the name of the applicant.

[2] Insert the name of the local government

[3] Insert the material(s) proposed to be excavated.

[4] Insert the postal address of the land subject of the application.

[5] Insert the title description of the land subject of the application.

[6] Insert the address of the local government

[7] Insert the date which should not be less than 21 days from the date when the advertisement is to first appear in the newspaper.

Form 2

(Site Notice)

**NOTICE OF APPLICATION
FOR AN EXTRACTIVE INDUSTRY LICENCE**

Take notice that [1]
.....
intends to apply to the [2] for an extractive industry licence to excavate
[3]
on land situated at [4]
.....
being [5]

Any person who wishes to object or otherwise comment upon this proposal, should do so in writing to the

Chief Executive Officer, [2], [6], not later than [7]

[1] Insert the name of the applicant.

[2] Insert name of local government

[3] Insert the material(s) to be excavated.

[4] Insert the postal address of the land subject of the application.

[5] Insert the title description of the land subject of the application.

[6] Insert address of local government

[7] Insert the date, which is to be 21 days after the date on which the notice is placed on the land.

Form 3

*Shire of Northam***APPLICATION****FOR AN EXTRACTIVE INDUSTRY LICENCE**

1. Name(Applicant)
2. Address.....
3. Telephone Fax
4. Address and locality of proposed excavation site
5. Lot No 6. Location No
7. Plan or Diagram No
8. Certificate of Title Volume Folio
9. Owner of the land
10. Address of owner of the land
11. Occupier of land.....
12. Material to be excavated
13. If the application covers land that is the subject of an existing licence—
Date of Issue of that licence
- Date of expiration of that licence
- Conditions applicable to that licence
14. Term of licence sought
15. Submitted with this application are—
(a) 3 copies of excavation site plans
(b) 3 copies of works and excavation programme
(c) 3 copies of rehabilitation and decommissioning programme
(d) datum peg evidence
(e) licensed surveyor's certificate certifying the correctness of (a) and (d)
(f) evidence of compliance with clause 2.6(1) and (2)
(g) copies of all land use planning approvals
(h) copies of any environmental approval
(i) copies of any geotechnical information
(j) written consent of the owner of the excavation site
(k) any other information that the local government has required
(l) licence application fee of \$.....

The applicant applies for a licence in respect of the proposed excavation site in accordance with and subject to the Shire of Northam Extractive Industries Local Law 2004.

Dated this day of year 20.....

Signature of Applicant

Signature of Owner of the land

Signature of Occupier
(if not the applicant or owner)

Signature of existing licensee
(if applicable)

Form 4

*Shire of Northam***EXTRACTIVE INDUSTRY LICENCE**

Licensee

Address

Land Description

Material to be Excavated

Term of Licence

Date of Expiry

This licence is issued in accordance with the *Shire of Northam Extractive Industries Local Law 2004* subject to the following conditions—

.....

.....

.....

.....

Dated this day of year 20.....

Chief Executive Officer

Form 5

*Shire of Northam***TRANSFER ENDORSEMENT**

This licence is transferred to

of

from the date of the endorsement until

subject to each of the above conditions and the following additional conditions—

Schedule

PRESCRIBED OFFENCES

Clause	Description	Modified Penalty \$
2.1	Carry on Extractive Industry without licence or in breach of terms and conditions	300
3.7	Fencing not erected or maintained	300
6.1	Excavate near boundary	200
6.1(7)	Remove tree or shrubs near boundary without approval	250
6.4(1)	Blasting without approval of local government	500
6.4(3)	Blasting outside times authorized	500
6.4(4)	Blasting in breach of conditions imposed by the local government	500
6.4(5)	Blasting without approval on Saturday, Sunday or public holiday	200

Dated this 21st day of December 2004.

The Common Seal of the Shire of Northam was affixed by authority of a resolution of the Council in the presence of—

A. W. LLEWELLYN, President

A. J. MIDDLETON, Chief Executive Officer.

